The applicant notes with appreciation the withdrawal of prior rejections based on prior art, and the withdrawal of prior objections based on formal matters. The office action presents a new rejection based on newly cited prior art which will be addressed in detail below, and maintains a rejection on statutory subject matter which is discussed below. The applicant traverses these rejections and is of the position the application should now proceed to allowance.

Claims 2 to 4, 6 to 8, 10 to 12 and 14 to 16 are pending. By this amendment, claims 3, 4, 11, 12, 14 and 16 are amended to address formal matters found in certain dependent claims and do not raise new issues. No amendments have been made to any independent claims. Entry of the amendment is appropriate at this time as it places the application in better condition for allowance or appeal.

Claims 10-12 and 16 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. This rejection is respectfully traversed.

The Examiner quotes page 62, lines 16-20, of the Specification, i.e. "the recording medium may include a communication medium of wired or wireless communication to transmit the program, for example, when the program is transmitted from a server to a computer" and asserts that the scope of claim 10 includes embodiments of a computer program as a signal, and as such is non-statutory, as an encoded signal per se is a form of energy. However, what is explained on page 62, lines 16-20, of the Specification is that the recording medium may include a communication medium in which the program that is transmitted from the server to the computer by wired or wireless communication, but the preceding sentence on page 62, at lines

10-15 makes clear that the program is stored in computer readable media as listed. Thus, this portion of Specification never suggests that the recording medium may include a signal itself, but the Specification, read in context, explains that it may include some kind of medium in which the transmitted program is stored. It is clear that the Applicant is <u>not</u> claiming a "signal" or other "form of energy". Withdrawal of the rejection is therefore respectfully requested.

Claims 3, 4, 11, 12, 14 and 16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite or failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the amended claims 3 and 11 the term "said data of second linear prediction coefficients" has been replaced by the term "data of second linear prediction coefficients". And, in the amended claims 4, 12, and 14, the term "said data" and "the data" have been replaced by the term "said current data" and "the current data", respectively. Thus, in the amended claims 2, 4, 11, 12 and 14, the subject matter which regards as the invention is particularly pointed out and distinctly claimed. Withdrawal of the rejection is therefore respectfully requested.

Claims 2 to 4, 6 to 8, 10 to 12 and 14 to 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. PGpub. 2002/0077812 to Suzuki in view of U.S. PGpub. 2002/0091523 to Makinen at el. This rejection is also respectfully traversed.

Regarding claim 2, as the Examiner concedes, Suzuki fails to teach calculating current data of said first linear prediction coefficients by calculating from past data of said first linear prediction coefficients obtained in the past, if said first codes are unavailable; calculating current data of said first excitation signal by calculating from past data of said first excitation signal

obtained in the past, if said first codes are unavailable. On this point, the examiner asserts Makinen discloses these limitations.

However, Makinen, in [0011], mentions as follows (emphasis added):

"According to the prior art, when an error is detected in a received speech frame, a substitution and muting procedure is begun; the speech parameters of the bad frame are replaced by attenuated or modified values from the previous good frame, although some of the least important parameters from the erroneous frame are used, e.g. the code excited linear prediction parameters (CELPs), or more simply the excitation parameters."

This paragraph means that some of the important parameters including linear prediction parameters or the excitation parameters are used from the erroneous frame, but not from the previous good frame. Thus, Makinen clearly teaches away from calculating current data of said first linear prediction coefficients by calculating from past data of said first linear prediction coefficients obtained in the past, if said first codes are unavailable; calculating current data of said first excitation signal by calculating from past data of said first excitation signal obtained in the past, if said first codes are unavailable. At least from this point, it is clear that the combination of Suzuki and Makinen et al. neither teaches nor suggests the claimed invention.

In view of foregoing, Applicant respectfully submits that claim 2 is allowable. Additionally, Applicant respectfully submits because claims 6 and 10 recite a similar feature, these claims are allowable for the same reasons set forth above. Finally, Applicant respectfully submits claims 3, 4, 7, 8, 11, 12 and 14 to 16 are allowable, at least by virtue of their dependency.

Therefore, it is respectfully requested that the application be reconsidered and that the application be passed to issue.

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Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephone or personal interview.

Please charge any fees for any deficiency in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

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